MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF RICHMOND
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE MIRAFLORES HOUSING DEVELOPMENT

WHEREAS, the City of Richmond ("City"), a "responsible Entity" under 24 C.F.R. Part 58, through the Richmond Community Redevelopment Agency ("RCRA") has determined that the Miraflores Housing Development ("Undertaking" or the "Project") will have an adverse effect upon the Sakai Nursery and Oishi Nursery, properties that have been determined eligible for listing in the National Register of Historic Places ("NRHP"); and

WHEREAS, the City has consulted with the California State Historic Preservation Officer ("SHPO") pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), as amended; and

WHEREAS, Eden Housing, Incorporated ("Eden" or "Project Sponsor"), Community Housing Development Corporation of North Richmond ("CHDC" or "Project Sponsor") and National Park Service ("NPS") have participated in the consultation and have been invited to concur in this Memorandum of Agreement ("MOA"); and

WHEREAS, the City, through Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (Community Development Block Grant) will assist in the Undertaking; and

WHEREAS, the City through the HOME Investment Partnerships Program, authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act will assist in the Undertaking; and

WHEREAS, the City through the Brownfields Economic Development Initiative, authorized by the Housing and Community Development Act of 1974, Section 108(q), as amended, Public Law 93-383 will assist in the Undertaking;

NOW, THEREFORE, the City and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.

STIPULATIONS

The City shall proceed with the conceptual design of the Undertaking based on the project description provided in the Environmental Impact Report associated with this Project.

The City will ensure the following measures are carried out:

I. ARCHEOLOGICAL RESOURCES.

A. Inadvertent Archeological Resource Discovery:

If during project construction activities previously unidentified archeological resources are discovered, all project activities in the immediate vicinity of the discovery would be halted and the procedures of 36 CFR Part 800.13(b) and (c) followed.

B. Treatment of Native American human remains and cultural properties:

The City shall ensure that upon discovery of Native American human remains and of associated or unassociated funerary objects, such things shall be treated in accordance with provisions of California Public Resources Code Section 5097.94, 5097.98, and 5097.99 and the California Health and Safety Code Section 7050.5 or as provided in federal implementing regulations found in 36 CFR 800.13(b) (2).

C. Disclosure of Sensitive Information:

The signatories to this MOA acknowledge that archeological resources covered by this MOA are subject to the provisions of Section 304 of the National Historic Preservation Act and Section 6254.10 of the California Government Code (Public Records Act) relating to the disclosure of archeological site information and having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with Section 304 of the Act and Section 6254.10 of the California Government Code.

D. Reporting Requirements:

A copy of the results of any archeological investigation undertaken for the Miraflores Housing Development shall be submitted to the Northwest Information Center, Sonoma State University, Rohnert Park, California and to the Environmental Review Officer of the City of Richmond.

II. HISTORICAL RESOURCES.

A. Prior to implementation of the Undertaking and to satisfy Section 106 of the National Historic Preservation Act, the City shall ensure that the buildings and landscape features be documented as stipulated in the letter dated October 18, 2006 from the United States Department of Interior National Park Service H

38(PWRO-CR) to City of Richmond regarding Historic American Landscape Survey Documentation of Oishi and Sakai Nurseries, Richmond, California, attached hereto as Exhibit "A". This documentation shall include archival quality, large format (minimum 4 by 5 inch) photographs of the exterior and interior views of the buildings. Similar greenhouses can be photographed as a group with more detailed photographs of a representative example of the group. Archival negatives of the original construction drawings and historic views will be included in the documentation. Copies of the documentation, with original photo negatives and prints, shall be donated to the Rosie the Riveter/World War II Home Front National Historical Park. A duplicate original set of photographic prints shall be donated to the Bancroft Library at U.C. Berkeley, Berkeley, California. Digital copies of the photographic documentation will be provided to the Richmond Museum of History, Richmond Public Library-Richmond Collection, and other archives (as appropriate) accessible to the public.

B. Prior to implementation of the Undertaking, the City shall review alternatives to the proposed Undertaking site under the California Environmental Quality Act ("CEQA"), including at least one alternative that involves a practical adaptive reuse of representative historic resources in situ known to exist on the Project site. In the event the City adopts an alternative undertaking or substantially alters the extant Undertaking, the City will initiate the Section 106 process for the new or substantially altered undertaking.

C. The City shall develop a permanent, interpretive exhibit on the Project site communicating the history of Richmond's Japanese American flower growing community in the vicinity of the Project area in addition to information about the Sakai and Oishi Nurseries. The exhibit should incorporate information from the historic report, historic photographs, and Historic American Buildings Survey (HABS) and Historic American Landscape Survey (HALS) documentation or other recordation materials and should be located and designed so that it is accessible to the public and of a durable design. The interpretive exhibit should be developed and designed by a qualified team including an historian and a graphic designer or exhibit designer. If the exhibit cannot be accommodated at the Project site, another appropriate public venue can also be considered, such as the Richmond Public Library, Richmond History Museum, Rosie the Riveter/World War II Hope Front Museum, the greenway trail along the northern edge of the site, and/or as a DVD/Video or publication to be shared with the public.

D. Through the CEQA, the National Environmental Protection Act ("NEPA") and local entitlement process, the City, as a condition of approval of the Project, shall require the incorporation of historically or architecturally significant features of the Sakai and Oishi Nurseries into the design of the Project. The feasibility of retaining one or more buildings, including greenhouses 7, 8, 9, 17 and 18 of the Oishi Nursery shall be studied by the

Project Sponsor for preservation in situ on the Oishi site. The Sakai House, the tank house and one or more greenhouses (such as greenhouse 20) shall be studied by the Project Sponsor for preservation in situ on the Sakai site.

E. During the CEQA/NEPA process, the City shall ensure that SHPO is provided with all documents as they are published relating to the Undertaking with a request for SHPO comments. Upon completion of the CEQA/NEPA process by the City, SHPO shall have fifteen (15) calendar days to exercise the opportunity to comment to the City upon the final plan of the undertaking before it is implemented. If no written comment is received by the City by the 16th day, SHPO shall be deemed to have no further comments on the undertaking.

F. Before any buildings are demolished, representatives of the Richmond Planning Department, the Richmond Museum of History or representatives of local preservation or historical societies and other interested parties shall be contacted by the City's Certifying Officer (identified below) and given the opportunity to examine the building and vegetation to provide suggestions for salvaging or propagating particular elements.

III. DISCOVERY.

The Project Sponsor shall notify the Certifying Officer, who shall then notify SHPO as soon as practicable if it appears that any action covered by this MOA will affect a previously unidentified property that may be eligible for inclusion in the NRHP or affect a known historic property in an unanticipated manner. The Project Sponsor shall stop construction in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the property and proceed pursuant to 36 CFR §800.13(b).

IV. DISPUTE RESOLUTION.

Should any signatory object at any time to the manner in which the terms of this MOA are implemented, the Certifying Officer shall consult with the objecting party (ies) to resolve the objection. If the Certifying Officer determines with fifteen (15) calendar days of receipt that such objection(s) cannot be resolved, the Certifying Officer will forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation ("Council") in accordance with 36 CFR §800.2(b)(2). The Certifying Officer in reaching a final decision regarding the dispute shall take any Council comment provided into account. The Certifying Officer will also consult with State Historic Preservation Director (identified below). The Certifying Officer's responsibility to carry out all other actions under this MOA that are not the subjects of the dispute will remain unchanged.

V. PUBLIC OBJECTION.

At any time during the implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised in writing by a member of the public, the Certifying Officer shall take the objection into account and consult, as needed, with the objecting party and SHPO, as needed, for a period of time not to exceed fifteen (15) calendar days. If the Certifying Officer is unable to resolve the conflict, the Certifying Officer will forward all documentation relevant to the dispute to the Council, following the terms in stipulation IV above.

VI. AMENDMENTS, NONCOMPLIANCE AND TERMINATION

A. If any signatory believes that the terms of this MOA cannot be carried out or that an amendment to its terms should be made, that signatory shall immediately consult with the other parties to develop amendments pursuant to 36 CFR §800.6(c)(8). If this MOA is not amended as provided for in this stipulation, any signatory may terminate it, whereupon the City shall proceed in accordance with 36 CFR §800.6(c)(8).

B. If either the terms of this MOA or the Undertaking have not been carried out within five (5) years following the date of execution of the MOA, the signatories shall reconsider its terms. If the signatories agree to amend the MOA, they shall proceed in accordance with the amendment process referenced, above.

Execution and implementation of this MOA evidences that the City has afforded the Advisory Council on Historic Preservation a reasonable opportunity to comment on the Undertaking and its effects on historic properties, that the City has taken into account the effects of the Undertaking on historic properties, and that the City has satisfied its responsibilities under Section 106 of the National Historic Preservation Act and applicable implementing regulations.

This MOA can be signed in counterparts.

Signatories:

CITY OF RICHMOND CERTIFYING OFFICER

By: _____ Date: Dec. 11, 2007

Richard Mitchell
Planning Director, City of Richmond

Approved as to form:

_____ Date: Dec. 13, 2007

City Attorney

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: 9 JAN 2008, ~~2007~~
Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Consulting Parties:

EDEN HOUSING, INC. (Project Sponsor)
409 Jackson Street, Hayward, CA 94544

By: _____ Date: _____, 2007
Linda Mandolini, Executive Director

COMMUNITY HOUSING DEVELOPMENT CORPORATION OF NORTH RICHMOND (Project Sponsor)
1535A Third Street
Richmond, CA 94801

By: _____ Date: _____, 2007
Don Gilmore, Executive Director

UNITED STATES DEPARTMENT OF INTERIOR
NATIONAL PARK SERVICE
1401 Marina Way South
Richmond, California 94804

By: _____ Date: _____, 2007
Martha J. Lee, Superintendent

Incorporated and attached as Exhibit "A":

United States Department of Interior National Park Service letter to Natalia Lawrence, City of Richmond, dated October 18, 2006 from Elaine Jackson-Retondo, Ph.D., Architectural historian, Cultural Partnership Program regarding ***Historic American Landscape Survey Documentation of Oishi and Sakai Nurseries, Richmond, California.*** H38 (PWRO-CR)

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____, 2007
Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

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By: _____ Date: _____, 2007
Linda Mandolini, Executive Director

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1535A Third Street
Richmond, CA 94801

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Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Consulting Parties:

EDEN HOUSING, INC. (Project Sponsor)
409 Jackson Street, Hayward, CA 94544

By: _____ Date: Dec 14, 2007
Linda Mandolini, Executive Director

COMMUNITY HOUSING DEVELOPMENT CORPORATION OF NORTH RICHMOND (Project Sponsor)
1535A Third Street
Richmond, CA 94801

By: _____ Date: _____, 2007
Don Gilmore, Executive Director

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Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Consulting Parties:

EDEN HOUSING, INC. (Project Sponsor)
409 Jackson Street, Hayward, CA 94544

By: _____ Date: _____, 2007
Linda Mandolini, Executive Director

COMMUNITY HOUSING DEVELOPMENT CORPORATION OF NORTH RICHMOND (Project Sponsor)
1535A Third Street
Richmond, CA 94801

By: _____ Date: 12/20, 2007
Don Gilmore, Executive Director

UNITED STATES DEPARTMENT OF INTERIOR
NATIONAL PARK SERVICE
1401 Marina Way South
Richmond, California 94804

By: _____ Date: _____, 2007
Martha J. Lee, Superintendent

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